

109TH CONGRESS
1ST SESSION

S. 1769

To provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2005

Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Health and
5 Health Insurance Emergency Response Act of 2005”.

1 **TITLE I—CLARIFICATION OF A**
2 **PUBLIC HEALTH EMERGENCY**

3 **SEC. 101. MODIFICATION TO THE DEFINITION OF PUBLIC**
4 **HEALTH EMERGENCY.**

5 Section 319 of the Public Health Service Act (42
6 U.S.C. 247d) is amended—

7 (1) in subsection (a), by inserting before the
8 last sentence, the following: “Any determination
9 under this section shall specify the geographic area
10 with respect to which such determination applies.”;
11 and

12 (2) by striking subsection (d) and inserting the
13 following:

14 “(d) STATUTORY WAIVER.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of this Act, if the Secretary declares a pub-
17 lic health emergency pursuant to subsection (a), the
18 Secretary may waive the following statutory require-
19 ments:

20 “(A) REPORTING OR ADMINISTRATIVE RE-
21 QUIREMENTS.—In any case in which the Sec-
22 retary determines that, wholly or partially as a
23 result of a public health emergency that has
24 been determined pursuant to subsection (a), in-
25 dividuals or public or private entities are unable

1 to comply with deadlines for the submission to
2 the Secretary of data, reports, or other mate-
3 rials, or for the completion of other administra-
4 tive tasks required under any law administered
5 by the Secretary, the Secretary may grant such
6 extensions of such deadlines as the cir-
7 cumstances may reasonably require, and may
8 waive, wholly or partially, any sanctions other-
9 wise applicable to such failure to comply.

10 “(B) VACCINATIONS.—With respect to sec-
11 tion 317 of this Act and section 1928 of the So-
12 cial Security Act, the Secretary may waive re-
13 quirements related to the eligibility of adults
14 and children for participation in the program
15 for those in an area with respect to which the
16 Secretary has declared a public health emer-
17 gency during the period of such declaration.

18 “(C) EXTENSION OF AVAILABILITY OF
19 FUNDS.—If, as a result of a public health emer-
20 gency declared pursuant to subsection (a), the
21 Secretary determines that the Secretary is un-
22 able to obligate funds for a particular fiscal
23 year, such funds shall remain available for an
24 additional 180 days.

1 “(D) MATCHING REQUIREMENTS.—In any
2 case in which the Secretary determines that an
3 entity in an area with respect to which the Sec-
4 retary has declared a public health emergency
5 pursuant to subsection (a) is unable to provide
6 funds required as a condition of Federal match-
7 ing under any provision of the Public Health
8 Service Act, the Secretary may grant a waiver
9 of such funding requirement for the fiscal years
10 covered by such emergency declaration. To the
11 extent that additional amounts have been ap-
12 propriated for programs that have received a
13 waiver under this subparagraph as a result of
14 Hurricane Katrina, the Secretary may make
15 such additional amounts available to entities on
16 a pro rata basis.

17 “(E) MOBILIZING RESOURCES TO PROVIDE
18 ACCESS.—If the Secretary declares a public
19 health emergency pursuant to subsection (a)
20 with respect to an area, the Secretary may
21 deem such area as a health professional short-
22 age area (as defined under section 332(a)), a
23 medically underserved population (as defined
24 under section 330(b)(3)), or a medically under-

1 served area or community during the period of
2 such declaration.

3 “(e) LICENSING AND LIABILITY PROVISIONS.—If the
4 Secretary declares a public health emergency pursuant to
5 subsection (a) with respect to an area, the Secretary may
6 waive the application of licensing requirements applicable
7 to physicians and other health care professionals who are
8 volunteering to provide medical services (within their
9 scope of practice) within such area as part of a coordi-
10 nated emergency response if such physicians or health
11 care professionals have equivalent licensing in good stand-
12 ing in another State and are not affirmatively excluded
13 from practice in that State or in any State a part of which
14 is included in the designated public health emergency area.
15 A physician or other health care professional described in
16 section 2811(d)(1) shall be covered by the provisions of
17 section 2811(d)(2), including with respect to liability.

18 “(f) FDA WAIVER AUTHORITY.—If the Secretary de-
19 clares a public health emergency pursuant to subsection
20 (a) with respect to an area, the Secretary may—

21 “(1) waive the requirements in the second sen-
22 tence of section 304(h)(1)(B) of the Federal Food,
23 Drug, and Cosmetic Act;

1 “(2) waive the requirement of section 304(h)(2)
2 of such Act that limits the administrative detention
3 of foods to not more than 30 days; and

4 “(3) waive the requirement of section
5 304(h)(4)(A) of such Act relating to the timing of
6 an opportunity for an informal hearing upon the ap-
7 peal of a detention order.

8 Under paragraph (1), the Secretary may not waive the re-
9 quirements of sections 1.392 or 1.393 of title 21, Code
10 of Federal Regulations, or any successor regulations
11 thereto.

12 “(g) REPORT.—Not later than 2 days after granting
13 any waiver under subsection (d), (e), or (f), the Secretary
14 shall notify the appropriate committees of Congress of
15 such action. The Secretary shall publish in the Federal
16 Register a notice of such waiver in a timely manner. Such
17 notification shall include, if applicable—

18 “(1) the specific provisions of law to be waived
19 or modified;

20 “(2) the rationale for such waiver or modifica-
21 tion;

22 “(3) the geographic area in which the waiver or
23 modification will apply; and

1 “(4) the period of time, not to exceed the period
2 of the emergency, for which the waiver or modifica-
3 tion will be in effect.

4 “(h) AUTHORITY FOR RETROACTIVE APPLICA-
5 TION.—A waiver or modification described in subsections
6 (d), (e), and (f), at the discretion of the Secretary, may
7 be made retroactive to the beginning of the emergency pe-
8 riod or any subsequent date in such period as specified
9 by the Secretary.”.

10 **SEC. 102. SENSE OF CONGRESS CONCERNING THE HURRI-**
11 **CANE KATRINA-RELATED PUBLIC HEALTH**
12 **EMERGENCY.**

13 It is the sense of Congress that—

14 (1) with respect to the public health emergency
15 declared under section 319 of the Public Health
16 Service Act (42 U.S.C. 247d) resulting from Hurri-
17 cane Katrina, the Secretary of Health and Human
18 Services, in coordination with other Federal entities
19 (including the Federal Emergency Management As-
20 sociation, the Department of Defense, the Depart-
21 ment of Veterans’ Affairs, Environmental Protection
22 Agency, and the National Disaster Medical System),
23 State and local governments, and public and private
24 sector entities, where appropriate, should ensure the
25 following:

1 (A) grants and funding should be provided
2 to address ongoing emergency responses and re-
3 covery;

4 (B) the provision of health services includ-
5 ing medical specialty services, health-related so-
6 cial services including protection and advocacy
7 services, other appropriate human services, and
8 appropriate auxiliary services to respond to the
9 needs of the survivors of the public health
10 emergency;

11 (C) clinicians deployed as part of the emer-
12 gency response efforts who are licensed and cer-
13 tified within their respective State and in good
14 standing within their State should be afforded
15 appropriate liability protections;

16 (D) clinicians deployed as part of the
17 emergency response who are licensed or other-
18 wise certified in their respective State and in
19 good standing within their State should not
20 need to fulfill additional licensure or certifi-
21 cation requirements in areas declared to be part
22 of a public health emergency;

23 (E) individuals within the public health
24 emergency areas should be able to access qual-
25 ity mental health and substance abuse services

1 including services to reduce and identify indi-
2 viduals at risk of suicide and post-traumatic
3 stress disorder and provide appropriate inter-
4 ventions;

5 (F) environmental teams should be de-
6 ployed to provide assessments and environ-
7 mental controls for areas within the public
8 health emergency;

9 (G) social services, including protection
10 and advocacy services and access to domestic vi-
11 olence shelters, should be extended to those
12 within the public health emergency areas;

13 (H) communication resources should be
14 available to those displaced by the hurricane in-
15 cluding access to 2-1-1 call centers;

16 (I) support services including supports,
17 equipment, supplies, medications, and other
18 types of assistance (such as those provided
19 through the Developmental Disabilities Assist-
20 ance and Bill of Rights Act of 2000) should be
21 available to vulnerable populations including the
22 elderly and individuals with disabilities;

23 (J) real time electronic surveillance, diag-
24 nosis, and treatment of epidemic, re-emerging,
25 and emerging diseases, including a functioning

1 diagnostic laboratory, should be provided for
2 those dislocated as a result of Hurricane
3 Katrina and first-responders;

4 (K) funding should be provided to help
5 healthcare facilities, medical research facilities,
6 community health centers, and other essential
7 public health and health care infrastructure
8 components to assist them in the ongoing re-
9 sponse efforts, to clean up their facilities, or to
10 rebuild;

11 (L) coordination and minimizing the dupli-
12 cation of Federal, State, and local response and
13 recovery efforts;

14 (M) funding should be provided to ensure
15 that the Strategic National Stockpile is able to
16 provide and appropriately deploy the necessary
17 drugs, vaccines, and other biological products,
18 medical devices, and other supplies needed to
19 address acute exacerbations of chronic illness as
20 well as acute injuries and illness resulting from
21 Hurricane Katrina;

22 (N) funding should be provided to the Cen-
23 ters for Disease Control and Prevention and the
24 National Institutes of Health to pay for needed
25 communications, including public service an-

1 nouncements on radio and television, to provide
2 for additional personnel, and to provide needed
3 health and safety training and resources to af-
4 fected workers and employers;

5 (O) none of the funds provided by the Sec-
6 retary of Health and Human Services in re-
7 sponse to Hurricane Katrina should made avail-
8 able to entities that have been indicted for
9 abandoning patients during the disaster period;
10 and

11 (P) the Department of Health and Human
12 Services should conduct an effective ongoing
13 program to monitor the health of survivors of
14 Hurricane Katrina and of workers and volun-
15 teers involved in rescue, response, and rebuild-
16 ing efforts due to Hurricane Katrina, and that
17 such a program should include screening for
18 health conditions (including mental health con-
19 ditions) and appropriate referrals; and

20 (2) the current public health emergency de-
21 clared by Secretary Leavitt relating to Hurricane
22 Katrina under such section 319 should be extended
23 beyond 90 days.

TITLE II—HEALTHCARE RESPONSE

SEC. 201. ASSISTANCE TO STATES IN A PUBLIC HEALTH EMERGENCY.

Section 311(c)(2) of the Public Health Service Act (42 U.S.C. 243(c)(2)) is amended—

(1) by striking “(2) The” and inserting the following:

“(2)(A) Except as provided in subparagraph (B), the”; and

(2) by adding at the end the following:

“(B) If the Secretary declares a public health emergency under section 319, the 6 month period described in the first sentence of subparagraph (A) may be extended for a period of not to exceed 18 months with respect to assistance to geographic areas that are the subject of such declaration.”.

SEC. 202. STRENGTHENING THE HEALTHCARE SAFETY NET.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may temporarily provide (for the period for which a determination of public health emergency is in effect under section 319 of the Public Health Service Act (42 U.S.C. 247d)) with respect to Hurricane Katrina that any health center or facility providing primary and preventive care that—

1 (1) is located in an area to which such deter-
2 mination applies, and

3 (2) treats individuals displaced by Hurricane
4 Katrina;

5 shall receive reimbursement for such treatment from Fed-
6 eral health programs at the same rate at which a Feder-
7 ally qualified health center (as defined in section
8 1905(l)(2)(B) of the Social Security Act (42 U.S.C.
9 1596d(l)(2)(B))) would receive such reimbursement and
10 shall be eligible to receive funds under section 330 of the
11 Public Health Service Act (42 U.S.C. 245b) with respect
12 to services furnished to individuals displaced by Hurricane
13 Katrina if additional funds are made available under such
14 section for Hurricane Katrina response efforts.

15 **SEC. 203. MENTAL HEALTH NEEDS.**

16 (a) ENSURING FUNDING FOR MENTAL HEALTH IN
17 TIMES OF NATIONAL CRISIS.—Section 501(m) of the
18 Public Health Service Act (42 U.S.C. 290aa(m)) is
19 amended by adding at the end the following:

20 “(4) EXISTING FUNDING.—For purposes of car-
21 rying out this subsection, amounts appropriated
22 under this title for emergency response, as provided
23 for in this section, for fiscal years 2005 and 2006
24 shall remain available until expended or until a pub-

1 lic health emergency as declared by the Secretary no
2 longer exists.”.

3 (b) STRENGTHENING ACCESS TO MENTAL HEALTH
4 SERVICES IN AN EMERGENCY.—Section 520F of the Pub-
5 lic Health Service Act (42 U.S.C. 290bb–37) is amend-
6 ed—

7 (1) by striking subsection (b) and inserting the
8 following:

9 “(b) HEALTH CENTER.—In this section, the term
10 ‘health center’ has the meaning given such term in section
11 330, and includes community health centers and commu-
12 nity mental health centers.”;

13 (2) in subsection (c), by adding at the end the
14 following: “With respect to a declaration of a public
15 health emergency under section 319, the Secretary
16 shall, in awarding such grants, ensure that priority
17 is given to States and localities that are most af-
18 fected by such emergency.”;

19 (3) in subsection (e)(2)—

20 (A) in clause (i), by striking “individuals”
21 and all that follows through the semicolon and
22 inserting “individuals, including children, who
23 may be in need of emergency mental health
24 services, including individuals at risk of devel-

1 oping a mental illness, including Post Trau-
 2 matic Stress Disorder;” and

3 (B) in clause (iii), by inserting “or at risk
 4 of developing” after “individual with”; and

5 (4) in subsection (g), by striking “2003” and
 6 inserting “2006”.

7 **SEC. 204. ASSISTANCE FOR INDIVIDUALS WITH DISABIL-**
 8 **ITIES.**

9 (a) ASSESSMENT AND RESPONSE.—

10 (1) DEFINITIONS.—

11 (A) EMERGENCY SHELTER.—The term
 12 “emergency shelter” means an emergency shel-
 13 ter for persons described in subparagraph
 14 (C)(ii).

15 (B) INDIVIDUAL WITH A DISABILITY.—The
 16 term “individual with a disability” has the
 17 meaning given the term in section 3 of the
 18 Americans with Disabilities Act of 1990 (42
 19 U.S.C. 12102).

20 (C) INDIVIDUAL AFFECTED BY HURRICANE
 21 KATRINA.—The term “individual with a dis-
 22 ability affected by Hurricane Katrina” means a
 23 person who is—

1 (i) an individual with a disability, or
2 a family member of an individual with a
3 disability; and

4 (ii) a person who resided on August
5 22, 2005, in an area in which the Presi-
6 dent has declared that a major disaster ex-
7 ists, in accordance with section 401 of the
8 Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C.
10 5170), related to Hurricane Katrina.

11 (2) ASSISTANCE.—An entity that receives fi-
12 nancial assistance under title I of the Developmental
13 Disabilities Assistance and Bill of Rights Act of
14 2000 (42 U.S.C. 15001 et seq.) may use a portion
15 of such financial assistance to—

16 (A) determine the location and status of
17 individuals affected by Hurricane Katrina, who
18 are transferred from emergency shelters to
19 long-term care facilities (including nursing
20 homes and group homes), intermediate care fa-
21 cilities for individuals with mental retardation,
22 hospitals, correctional institutions, and other
23 similar locations; and

24 (B) assess and respond to the needs of in-
25 dividuals affected by Hurricane Katrina to en-

1 sure that the individuals receive necessary serv-
2 ices, supports, and other types of assistance.

3 (b) OVERSIGHT AND DISASTER ASSISTANCE.—Sub-
4 title C of title I of the Developmental Disabilities Assist-
5 ance and Bill of Rights Act of 2000 (42 U.S.C. 15041
6 et seq.) is amended by inserting after section 144 the fol-
7 lowing:

8 **“SEC. 144A. OVERSIGHT AND DISASTER ASSISTANCE.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) EMERGENCY SHELTER.—The term ‘emer-
11 gency shelter’ means an emergency shelter for per-
12 sons described in paragraph (3)(B).

13 “(2) INDIVIDUAL WITH A DISABILITY.—The
14 term ‘individual with a disability’ has the meaning
15 given the term in section 3 of the Americans with
16 Disabilities Act of 1990 (42 U.S.C. 12102).

17 “(3) INDIVIDUAL AFFECTED BY A MAJOR DIS-
18 ASTER.—The term ‘individual affected by a major
19 disaster’ means a person who is—

20 “(A) an individual with a disability; and

21 “(B) a person who resided in an area in
22 which the Secretary has declared a public
23 health emergency under section 319 of the Pub-
24 lic Health Service Act, 7 days before the dec-
25 laration.

1 “(4) PUBLIC HEALTH EMERGENCY.—The term
 2 ‘public health emergency’ means a public health
 3 emergency as designated under section 319 of the
 4 Public Health Service Act.

5 “(b) OVERSIGHT.—

6 “(1) GRANTS.—

7 “(A) IN GENERAL.—In a case in which the
 8 Secretary of Health and Human Services has
 9 declared that a public health emergency exists
 10 for a geographic area, and as a result individ-
 11 uals affected by a major disaster are placed in
 12 an emergency shelter in a State, the Secretary
 13 may make a grant to the system for that State.

14 “(B) USE OF FUNDS.—A system that re-
 15 ceives a grant under subparagraph (A) shall use
 16 the funds made available through the grant
 17 to—

18 “(i) establish a registry to identify
 19 and maintain information about such indi-
 20 viduals who are in such emergency shelter;

21 “(ii) track the transfers of such indi-
 22 viduals from such emergency shelter to
 23 community and non-community settings;
 24 and

1 “(iii) provide oversight at such emer-
2 gency shelter to assure that such individ-
3 uals are receiving necessary services, sup-
4 ports, and other types of assistance.

5 “(2) COORDINATION.—In carrying out activities
6 under paragraph (1), the system shall coordinate the
7 activities with the Under Secretary for Emergency
8 Preparedness and Response in the Department of
9 Homeland Security, and with any nonprofit agency
10 (such as the American Red Cross) providing assist-
11 ance through an emergency shelter described in
12 paragraph (1).

13 “(c) ACCESS.—As soon as practicable after the Sec-
14 retary of Health and Human Services has declared a pub-
15 lic health emergency for an area, and as a result individ-
16 uals affected by the emergency are placed in an emergency
17 shelter in a State, the Commissioner of the Administration
18 on Developmental Disabilities shall notify each emergency
19 shelter in the State receiving such individuals that staff
20 of the system for the State shall have authority to enter
21 the shelter, and shall have access to the individuals af-
22 fected by the emergency residing in that shelter, to provide
23 information related to services, supports, and other types
24 of assistance for, and to protect the human, service, and

1 legal rights of, individuals affected by the emergency resid-
 2 ing in that shelter.

3 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to carry out subsection
 5 (b) \$2,000,000 for fiscal year 2006 and such sums as may
 6 be necessary for fiscal year 2007.”.

7 **SEC. 205. LIABILITY AND LICENSURE AWARENESS PRO-**
 8 **MOTION FOR HEALTH VOLUNTEERS.**

9 (a) IN GENERAL.—The Secretary of Health and
 10 Human Services shall utilize the Internet and other appro-
 11 priate means to disseminate to the public information on
 12 health professional liability coverage and licensure require-
 13 ments for intermittent disaster response personnel (as de-
 14 scribed in section 2811(d)(1) of the Public Health Service
 15 Act (42 U.S.C. 300hh–11(d)(1))) in areas in which a pub-
 16 lic health emergency have been declared under section 319
 17 of such Act (42 U.S.C. 247d).

18 (b) TYPE OF INFORMATION.—The information to be
 19 provided under subsection (a) shall, in the case of a State
 20 where health professional licensure requirements have
 21 been waived, include—

22 (1) whether and how intermittent disaster re-
 23 sponse personnel may be able to receive certain li-
 24 ability protections as described in section 2811(d)(2)

1 of the Public Health Service Act (42 U.S.C. 300hh–
 2 (d)(2)), or under applicable provisions of State law;
 3 (2) the possible limitations of such coverage
 4 and protections; and
 5 (3) other information needed to enable health
 6 professionals to make an informed decision about
 7 providing volunteer health services.

8 **TITLE III—RESEARCH AND** 9 **REPORTS**

10 **SEC. 301. MONITORING THE HEALTHCARE, MENTAL** 11 **HEALTH, AND PUBLIC HEALTH RESPONSE.**

12 (a) IN GENERAL.—The Secretary of Health and
 13 Human Services, acting through a public service non-prof-
 14 it research and analysis firm, shall provide for an imme-
 15 diate and independent review (through the immediate col-
 16 lection of data and conduct of analyses) of the lessons
 17 learned from the Federal, State and local public health,
 18 mental health, and medical care planning, preparedness,
 19 and response to Hurricane Katrina.

20 (b) PURPOSE.—The purpose of the study under sub-
 21 section (a) is to collect available relevant data, through
 22 site visits, reviews of medical and epidemiological records,
 23 interviews with individuals residing in an area in which
 24 a public health emergency has been declared under section
 25 319 of the Public Health Service Act as a result of Hurri-

1 cane Katrina, and interviews with Federal, State, and
2 local public health, mental health services, and medical of-
3 ficials. Such interviews shall be conducted in a manner
4 that, to the extent practicable, does not interfere with the
5 delivery of patient care and services.

6 (c) REPORT.—Not later than 120 days after the date
7 of enactment of this Act, the Secretary of Health and
8 Human Services shall submit to the Committee on Health,
9 Education, Labor, and Pensions of the Senate and the
10 Committee on Emergency and Commerce of the House of
11 Representatives, a report concerning the lessons learned
12 (as described in subsection (a)).

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$2,000,000 to carry out
15 this section.

16 **SEC. 302. REPORT ON REGULATORY REQUIREMENTS AND**
17 **FUNDING FORMULAS.**

18 (a) IN GENERAL.—Not later than 120 days after the
19 date of enactment of this Act, the Secretary of Health and
20 Human Services shall submit to Congress a report on the
21 specific regulatory requirements and funding formulas
22 under the Public Health Service Act (42 U.S.C. 201 et
23 seq.) that would assist the Secretary in responding to a
24 public health emergency (as declared under section 319
25 of such Act (42 U.S.C. 247d)).

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.

4 **SEC. 303. DEPARTMENT OF HEALTH AND HUMAN SERVICES**
5 **INSPECTOR GENERAL AUDIT AND REPORT.**

6 (a) IN GENERAL.—The Inspector General of the De-
7 partment of Health and Human Services (referred to in
8 this section as the “Inspector General”) shall conduct an
9 audit and investigation of each program carried out by
10 the Department of Health and Human Services that in-
11 cludes response and recovery activities related to Hurri-
12 cane Katrina.

13 (b) WEEKLY REPORT.—Not less frequently than once
14 a week, the Inspector General shall provide a report to
15 the Committee on Health, Education, Labor, and Pen-
16 sions of the Senate and the Committee on Energy and
17 Commerce of the House of Representatives listing the au-
18 dits and investigations initiated pursuant to subsection
19 (a).

20 (c) STATUS REPORT.—Not later than 6 months after
21 the date of enactment of this section, and biannually
22 thereafter until the audits and investigations described in
23 subsection (a) are complete, the Inspector General shall
24 report to the Committee on Health, Education, Labor, and
25 Pensions of the Senate and the Committee on Energy and

1 Commerce of the House of Representatives on the full sta-
 2 tus of the activities of the Inspector General under this
 3 section.

4 (d) COOPERATIVE VENTURES.—In carrying out this
 5 section, the Inspector General is encouraged to enter into
 6 cooperative ventures with Inspectors General of other Fed-
 7 eral agencies.

8 **TITLE IV—HEALTH INSURANCE** 9 **COVERAGE**

10 **SEC. 401. TEMPORARY EMERGENCY HEALTH COVERAGE**

11 **ASSISTANCE FOR BUSINESS AND INDIVID-** 12 **UALS.**

13 (a) IN GENERAL.—The Secretary of Health and
 14 Human Services (referred to in this section as the “Sec-
 15 retary”), in consultation with the insurance commissioners
 16 of those States contained in whole or in part in the Hurri-
 17 cane Katrina disaster area, shall establish a program to
 18 provide emergency health coverage continuation relief
 19 through the provision of direct payments of health insur-
 20 ance premiums or continuation assistance on behalf of eli-
 21 gible businesses and their employees and purchasers of in-
 22 dividual health insurance coverage.

23 (b) DEFINITIONS.—In this section:

24 (1) ELIGIBLE INDIVIDUALS.—The term “eligi-
 25 ble individual” means an individual (and the family

1 dependents of such individual as may be covered
2 under the health insurance coverage in which such
3 individual is enrolled)—

4 (A) who is a citizen, national, or qualified
5 alien as defined in section 431(b) of the Per-
6 sonal Responsibility and Work Opportunity
7 Reconciliation Act of 1996 (8 U.S.C. 1641(b));

8 (B) whose permanent residence as of Au-
9 gust 29, 2005 was located in a Hurricane
10 Katrina disaster area;

11 (C) who was covered under individual
12 (non-group) health insurance coverage, includ-
13 ing a policy operated pursuant to a qualified
14 high risk pool (as defined in section 2744 of the
15 Public Health Service Act (42 U.S.C. 300gg-
16 44)), on August 29, 2005; and

17 (D) whose ability to continue such cov-
18 erage was severely impaired as a result of hur-
19 ricane-related disruption in a Hurricane
20 Katrina disaster area.

21 (2) ELIGIBLE BUSINESSES.—The term “eligible
22 business” means a corporation, sole proprietorship,
23 or partnership that employs not more than 50 em-
24 ployees and that—

1 (A) operated as of August 29, 2005 in a
 2 Hurricane Katrina disaster area;

3 (B) offered coverage under a group health
 4 plan (as defined in section 733(a)(1) of the
 5 Employee Retirement Income Security Act of
 6 1974 (29 U.S.C. 1191b(a)(1))) on August 29,
 7 2005 to employees in a Hurricane Katrina dis-
 8 aster area; and

9 (C) had its ability to continue coverage
 10 under such plan severely impaired as a result of
 11 disruption of the sponsor's business activity in
 12 the Hurricane Katrina disaster area.

13 (3) CONTINUATION ASSISTANCE.—The term
 14 “continuation assistance” means, in the case of an
 15 eligible business that offers health insurance cov-
 16 erage under a self-insured arrangement, assistance
 17 in paying administrative services fees, claims costs,
 18 stop-loss premiums, and any amounts required to be
 19 paid by employees to participate in the arrangement.

20 (4) HURRICANE KATRINA DISASTER AREA.—
 21 The term “Hurricane Katrina disaster area” means
 22 a parish in the State of Louisiana, a county in the
 23 State of Mississippi, or a county in the State of Ala-
 24 bama, for which a major disaster has been declared
 25 in accordance with section 401 of the Robert T.

1 Stafford Disaster Relief and Emergency Assistance
2 Act (42 U.S.C. 5170) as a result of Hurricane
3 Katrina and which the President has determined,
4 before September 11, 2005, warrants both individual
5 and public assistance from the Federal Government
6 under such Act.

7 (c) HEALTH COVERAGE CONTINUATION RELIEF.—

8 (1) IN GENERAL.—The Secretary shall design
9 and implement the program under subsection (a) in
10 a manner that enables eligible individuals and eligi-
11 ble businesses to be eligible for direct premium reim-
12 bursement or continuation assistance to be paid by
13 the Secretary on behalf of such individual or busi-
14 ness directly to the health insurance issuer or ad-
15 ministrative services provider involved. In the case of
16 an eligible business, premium reimbursement shall
17 include the premium shares of both the employer
18 and employees, as applicable.

19 (2) LIMITATION.—Subject to paragraph (3), in
20 no case shall the value of the assistance provided
21 under the program under this section, with respect
22 to an individual or business, exceed 100 percent of
23 the applicable premium for coverage or continuation
24 assistance for the period of coverage involved, in-
25 cluding, with respect to employer coverage, the em-

1 employer and employees' share of premiums, if applica-
 2 ble.

3 (3) ENROLLMENT.—

4 (A) IN GENERAL.—The Secretary shall es-
 5 tablish an expedited process for the enrollment
 6 of eligible individuals and eligible businesses in
 7 the program under this section.

8 (B) DUTY OF SECRETARY UPON RECEIPT
 9 OF NOTICE.—The Secretary, upon receipt of a
 10 notice under subsection (f)(2), shall enroll the
 11 eligible individual or eligible business involved
 12 in the program under this section.

13 (C) DUTY OF ISSUER.—A group health
 14 plan, or health insurance insurer with respect
 15 to such a plan, shall make a reasonable effort
 16 to notify an eligible individual or eligible busi-
 17 ness—

18 (i) of the automatic enrollment of
 19 such individual or business in the program
 20 under subparagraph (B);

21 (ii) that, if it is later determined that
 22 the means of support of such individual, or
 23 the ability of such business to continue
 24 health insurance coverage, was not severely
 25 disrupted (as determined subject to a ran-

domized retrospective audit process), such individual or business may be required at a later date to repay the program for the amount of premiums or continuation assistance paid on its behalf; and

(iii) that such individual or business may elect to decline enrollment, or cancel enrollment, in the program by notifying the health insurance issuer or administrative service provider involved.

(d) RETROSPECTIVE AUDIT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide for the application of a randomized retrospective auditing process to the program under this section by a date that is not earlier than November 1, 2005.

(2) REPAYMENT OF FUNDS.—If the Secretary determines, pursuant to the audit process under paragraph (1), that an individual or business that was enrolled in the program under this section did not meet the disruption or other eligibility requirements provided for in paragraph (1) or (2) of subsection (b), the Secretary shall seek the repayment of funds paid on behalf of such individual or business. Such repayments shall be made with no interest or late penalty to accrue prior to the commence-

1 ment of a repayment period which shall begin not
2 earlier than the date that is 3 months after the date
3 on which a determination and notice of non-eli-
4 gibility is provided.

5 (3) NO DOUBLE PAYMENTS.—The Secretary
6 shall take appropriate actions to ensure that health
7 insurance issuers do not retain double payments in
8 instances where businesses or individuals pay pre-
9 miums for any period for which payments have al-
10 ready been made under the program under this sec-
11 tion.

12 (e) EMERGENCY PERIOD.—Payments under the pro-
13 gram under this section shall be made only for premiums
14 due during the period beginning on August 29, 2005 and
15 expiring 3 months after such date. Prior to the expiration
16 of such period, the Secretary may make recommendations
17 to Congress regarding any reasonably determined need to
18 extend such emergency period.

19 (f) NON-CANCELLATION OF HEALTH INSURANCE
20 COVERAGE.—

21 (1) IN GENERAL.—During the 3-month emer-
22 gency period described in subsection (e), health in-
23 surance issuers that accept payments under the pro-
24 gram under this section shall be prohibited from
25 canceling or terminating health insurance coverage

1 or, in the case of administrative services providers,
2 refusing to process claims under a self-insured ar-
3 rangement. Such health insurance issuers and ad-
4 ministrative service providers shall be prohibited
5 during such period from increasing any amounts due
6 pursuant to such coverage or arrangements that
7 were not previously scheduled pursuant to a contract
8 prior to August 29, 2005.

9 (2) NOTIFICATION.—To be eligible to receive
10 payments under this program under this section, a
11 health insurance issuer or administrative services
12 provider shall notify the Secretary—

13 (A) not earlier than 31 days following the
14 nonpayment of a scheduled premium payment
15 from an individual or business policyholder in a
16 Hurricane Katrina disaster area, of the fact of
17 such nonpayment (or nonreimbursement of
18 claims under a self-insured arrangement); or

19 (B) following a communication to the
20 health insurance insurer or administrative serv-
21 ice provider by an individual or business reason-
22 ably indicating eligibility for assistance under
23 such program, of the fact of such communica-
24 tion.

1 (g) EXPEDITED RULEMAKING.—The Secretary shall
 2 utilize expedited rulemaking procedures to carry out this
 3 section.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
 5 authorized to be appropriated to carry out this section
 6 \$1,000,000,000 for fiscal year 2006.

7 **SEC. 402. AUTHORITY TO POSTPONE CERTAIN DEADLINES**
 8 **RELATED TO INDIVIDUAL HEALTH COV-**
 9 **ERAGE BY REASON OF PRESIDENTIALLY DE-**
 10 **CLARED DISASTER OR TERRORISTIC OR**
 11 **MILITARY ACTION.**

12 (a) IN GENERAL.—Title XXVII of the Public Health
 13 Service Act (42 U.S.C. 300gg et seq.) is amended by add-
 14 ing at the end the following:

15 **“SEC. 2793. AUTHORITY TO POSTPONE CERTAIN DEAD-**
 16 **LINES BY REASON OF PRESIDENTIALLY DE-**
 17 **CLARED DISASTER OR TERRORISTIC OR**
 18 **MILITARY ACTION.**

19 “In the case of a plan offered through the individual
 20 market, or any health insurance issuer, participant, bene-
 21 ficiary, or other person with respect to such plan, affected
 22 by a Presidentially declared disaster (as defined in section
 23 1033(h)(3) of the Internal Revenue Code of 1986) or a
 24 terroristic or military action (as defined in section
 25 692(c)(2) of such Code), the Secretary may, notwith-

1 standing any other provision of law, prescribe, by notice
 2 or otherwise, a period of up to 1 year which may be dis-
 3 regarded in determining the date by which any action is
 4 required or permitted to be completed under this title. No
 5 plan shall be treated as failing to be operated in accord-
 6 ance with the terms of the plan solely as a result of dis-
 7 regarding any period by reason of the preceding sen-
 8 tence.”.

9 (b) APPLICATION OF AMENDMENT.—The Secretary
 10 of Health and Human Services shall implement the
 11 amendment made by subsection (a) in the same manner
 12 in which the Secretary of Labor implements section 518
 13 of the Employee Retirement Income Security Act of 1974
 14 (29 U.S.C. 1148) with respect to group health plans.

15 **TITLE V—EMERGENCY** 16 **DESIGNATION**

17 **SEC. 501. EMERGENCY DESIGNATION.**

18 Any amount provided under this Act is designated as
 19 an emergency requirement pursuant to section 402 of H.
 20 Con. Res. 95 (109th Congress).

